

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EVANSVILLE CELLULAR	)	
TELEPHONE COMPANY FOR THE ESTABLISHMENT OF	)	
INITIAL RATES AND FOR THE ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO PROVIDE DOMESTIC PUBLIC	)	CASE NO. 10228
CELLULAR RADIO TELECOMMUNICATIONS SERVICE	)	
TO THE PUBLIC IN THE EVANSVILLE, INDIANA,	)	
METROPOLITAN STATISTICAL AREA, INCLUDING	)	
PARTS OF HENDERSON COUNTY, KENTUCKY	)	

O R D E R

On April 21, 1988, Evansville Cellular Telephone Company ("Evansville CellTelCo") filed its application for the establishment of initial rates and for a certificate of public convenience and necessity to construct a cellular radio telecommunications system in and for the Kentucky portion of the Evansville, Indiana, metropolitan statistical area ("MSA"). Although Evansville CellTelCo had not yet selected a Kentucky cell site, the Commission granted approval of the application by Order dated June 16, 1988, to allow Evansville CellTelCo to provide service in Kentucky from its Indiana facilities. In that Order, Evansville CellTelCo was directed to file and seek approval for construction of its Kentucky facilities as soon as a site was selected.

On July 7, 1988, Evansville CellTelCo filed a supplement to its application which identified the location of the Kentucky cell site as well as provided other documentation concerning its

proposed construction. The Commission requested additional information by Order dated September 26, 1988. The response was filed on October 4, 1988.

Evansville CellTelCo proposes to construct a 300 foot tower with a 13 foot top-mounted antenna, which is to be located one mile southwest of the intersection of U. S. Route 41 and Smith Staples Road in Henderson County, Kentucky. The closest structures to the tower are a barn and the residence of the lessors, which are located 700 and 800 feet, respectively, from the tower supports.

Evansville CellTelCo notified the Henderson City-County Planning and Zoning Commission ("Planning Commission") of its proposed tower construction and of its application for a certificate of public convenience and necessity with this Commission. The Planning Commission did not file comments or intervene in this case. Evansville CellTelCo also filed evidence of the Federal Aviation Administration's determination that the proposed construction was not identified as an obstruction and would not be a hazard to air navigation. Evansville CellTelCo also indicated that the Kentucky Airport Zoning Commission had approved its application for a permit to construct or alter a structure.

Since the proposed location of the antenna tower would result in minor extensions of the 39 dBu contour outside of the Evansville-Henderson MSA, further approval from the FCC was required. The FCC approved the modification; however, its authorization did not include the right to any interference

protection in areas outside of the MSA and was conditioned upon coordination with any current or future co-channel licensees. Evansville CellTelCo was put on notice that in the event current or future licensees encounter interference from the extension, Evansville CellTelCo would have to change frequencies in the cell or pull back its 39 dBu contour to eliminate the interference. Accordingly, the Commission finds that it would be in the public interest to allow Evansville CellTelCo to extend its service in these areas outside of the previously approved areas. However, as the Commission does not have the authority to allocate the frequency spectrum, this authority is conditioned upon compliance with the FCC's requirements. In the event that a change in coverage areas is required, Evansville CellTelCo should notify the Commission of any disruption in service to any of its subscribers.

#### FINDINGS AND ORDERS

The Commission, having considered the evidence of record and being advised, finds that:

1. Evansville CellTelCo should be granted a certificate of public convenience and necessity to construct a cellular communications tower as described in this Order and its application.

2. Evansville CellTelCo should be granted authority to extend its service territory to include the minor extensions, as identified in its application, of the 39 dBu contour outside of the Evansville-Henderson MSA.

IT IS THEREFORE ORDERED that:

1. Evansville CellTelCo be, and hereby is, granted a certificate of public convenience and necessity to construct a cellular communications tower as described in this Order and its application.

2. Evansville CellTelCo be, and hereby is, granted authority to extend its service territory to include the minor extensions, as identified in its application, of the 39 dBu contour outside of the Evansville-Henderson MSA.

Done at Frankfort, Kentucky, this 9th day of November, 1988.

PUBLIC SERVICE COMMISSION

Richard D. Hemmer Jr.  
Chairman

Robert M. Davis  
Vice Chairman

Spencer W. Williams  
Commissioner

ATTEST:

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Executive Director